

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN DOE,)	
)	
Plaintiff,)	Case No. 4:23-CV-1312
)	
vs.)	
)	
LESLIE SUTTON,)	
)	
Defendant.)	

DEFENDANT LESLIE SUTTON'S MOTION FOR LEAVE
TO FILE COUNTERCLAIM

Comes now Defendant, Leslie Sutton, by and through counsel, and for her Motion for Leave to File Counterclaim states to the court as follows:

1. Plaintiff John Doe filed this instant suit in state court on August 30, 2023.
2. The suit was removed to this Court on October 18, 2023.
3. On November 15, 2023, this Court granted Plaintiff leave to file his Amended Complaint.
4. On November 28, 2023, Plaintiff filed his Amended Complaint.
5. The parties have not exchanged written discovery, as of yet.
6. No depositions have been taken.
7. Federal Rule of Civil Procedure 15(a) adopts a liberal amendment policy. *Robertson v. Hayti Police Dep't*, 241 F.3d 992, 995 (8th Cir. 2001). It permits a party to amend its pleading once as a matter of course within twenty-one days of serving the pleading or within twenty-one days after service of a responsive pleading or a Rule 12(b), (e), or (f) motion. Fed. R. Civ. Pro. 15(a)(1). Otherwise, "a party may amend its pleading only with the opposing party's written consent or the court's leave." Fed. R. Civ. Pro. 15(a)(2). The Rule directs

Courts to “freely give leave when justice so requires.” *Id.* And “[d]enial of leave to amend pleadings is appropriate only in those limited circumstances in which undue delay, bad faith on the part of the moving party, futility of the amendment, or unfair prejudice to the non-moving party can be demonstrated.” *Hillesheim v. Myron's Cards & Gifts, Inc.*, 897 F.3d 953, 955 (8th Cir. 2018) (quoting *Robertson*, 241 F.3d at 995).

8. There would be no prejudice to Plaintiff by Defendant being granted leave to file her Counterclaim.

9. Defendant attaches hereto to this Motion its proposed Counterclaim¹ as Exhibit A.

WHEREFORE Defendant prays for an Order from this Court granting it leave to file the attached Counterclaim and for such other and further relief as this Court deems just and proper.

/s/ Justin A. Hardin

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¹ Defendant's Counterclaim redacted Plaintiff/Counterclaim Defendant's real name as there is a pending motion filed by Plaintiff regarding his ability to proceed under a pseudonym. Obviously, the factors associated with proceeding pseudonymously do not apply, as pled in Plaintiff's Motion for Leave, to a defendant accused of committing his own intentional torts as alleged in Defendant's Counterclaim.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served by the Court's electronic filing system on this 12th day of December, 2023, on the counsel of record listed below.

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